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In the Matter of the Revocation of the Certification)
to Conduct Gambling Activities of:) NO. CR 2009-01000
)
Adam Flores,)
Olympia, Washington,)
)
Class III Employee.)

SETTLEMENT ORDER

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OAH - Olympia

This Settlement Order is entered into between the Washington State Gambling Commission and the licensee, Adam Flores. The Gambling Commission is represented by H. Bruce Marvin, Assistant Attorney General, and Melinda Froud, Staff Attorney. The licensee represents himself.

I.

The Washington State Gambling Commission issued Adam Flores the following certification:¹

Number 69-11883, Authorizing Class III Employee Activity, formerly with the Nisqually Tribe at the Red Wind Casino in Olympia.

The certification expires on March 16, 2010, and was issued subject to the Class III Employee's compliance with state gambling laws and rules and the Nisqually Tribal/State Compact.

II.

The Director issued a Notice of Administrative Charges and Opportunity for an Adjudicative Proceeding to the licensee on August 17, 2009. The licensee received the Notice, and on September 2, 2009, Commission staff received Mr. Flores' request for a hearing.

III.

The following summary of facts and violations were alleged in the Notice of Administrative Charges:

1) Appendix A, Section 17(3) of the Nisqually Tribe/State Compact states that when an employee receives a tip from a patron, the employee will immediately deposit the tip into the tip box. Nisqually Red Wind Casino Internal Control #910-02.11-016 states that all employees are prohibited from gambling at table games within the Red Wind Casino.

2) On April 28, 2009, while working at a Craps table, the Class III Employee received a tip from a casino patron. The Class III Employee did not immediately deposit this tip into the tip

¹ The Commission issues Class III Certifications to employees working at Tribal casinos. Certifications allow similar activities as Card Room Employee (CRE) licenses issued to persons working at commercial house-banked card rooms. Class III Employees may transfer their certifications to a CRE license and work at commercial card rooms by sending Commission staff a transfer form and the accompanying fee.

box. Instead, the Class III Employee asked a player at the Craps table to wager the tip in an area where players place wagers which are eventually given to the dealers as tips. The player agreed and wagered the tip given to the Class III Employee.

3) After the player made the initial wager, the Class III Employee continued to make new wagers and add money to the wager without the assistance of the player. As a result of the Class III Employee's actions, he gained additional money totaling approximately \$200. The Class III Employee then deposited the additional money gained into the tip box² at the gaming table. This resulted in a loss of approximately \$200 to the Red Wind Casino. The Class III Employee's actions demonstrate fraud and deceit, in violation of RCW 9.46.190.

4) On May 6, 2009, the Class III Employee was interviewed by a Nisqually Tribal Gaming Agent (TGA). The Class III Employee admitted that he wagered the tip he received from a patron; he said it is a common thing done by dealers at the Craps table. On May 27, 2009, the Nisqually Tribal Gaming Commission revoked the Class III Employee's Tribal Gaming License.

5) The Class III employee failed to immediately deposit a tip into the tip box in violation of Appendix A, section 17(3) of the Nisqually Tribe/State Compact. The Class III Employee wagered the tip at the Craps table he was working at in violation of Nisqually Red Wind Casino Internal Control #910-02.11-016. The Class III Employee failed to comply with the provisions, requirements, conditions, limitations or duties imposed by the Nisqually Tribal/State Compact and his actions demonstrate willful disregard for compliance with the gaming regulatory authority.

6) The Class III Employee, while working as a dealer at a Craps table, pursued economic gain in an occupational manner or context and such pursuit creates probable cause to believe that his participation in gambling related activities would be detrimental to the proper operation of gambling. Additionally, his actions demonstrate that he poses a threat to the effective regulation of gaming and increase the likelihood of illegal practices, methods and activities in the conduct of the gaming activities.

7) Based on the Class III Employee's actions and his tribal license being revoked, Adam Flores has failed to establish by clear and convincing evidence the necessary qualifications for certification under RCW 9.46.153(1).

8) Therefore, grounds exist to revoke Adam Flores' certification under Section V(C)(1) and (3) of the Nisqually Tribe/State Compact, RCW 9.46.075 (1), (8), and (10) and WAC 230-03-085 (1).

Section V(C) of the Nisqually Tribal/State Compact

The State Gaming Agency may revoke, suspend or deny a State Certification under the provisions of RCW 9.46 and the rules promulgated thereunder, for any reason or reasons it deems to be in the public interest. These reasons shall include when the certification holder: (The following subsections apply)

² The contents of the tip box are shared between the employees working at the gaming table.

(1) Is determined to be a person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the effective regulation of gaming or create or enhance the chances of unfair or illegal practices, methods and activities in the conduct of the gaming activities permitted pursuant to this Compact; or the person has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by any provision of a Tribal/State Compact.

(3) Has had a Tribal or State gaming license revoked or denied during the twelve (12) months prior to the date of receipt of the application; is currently on probation; or has demonstrated a willful disregard for compliance with gaming regulatory authority in any jurisdiction, including offenses that could subject the individual or entity to suspension, revocation or forfeiture of a gaming license.

Appendix A, Section 17 of the Nisqually Tribe/State Compact

Acceptance of Gratuities from Patrons

(The following subsection applies)

(3) Upon receipt from a patron of a tip, a croupier or dealer assigned to a gaming station shall tap the table or wheel and extend his or her arm to show the pit boss that he had received a tip and immediately deposit such tip in the tip box. Tips received shall be retained by employees or pooled among employees in such a manner as determined by the tribal gaming operation.

RCW 9.46.075 Denying, suspending, or revoking an application, license or permit

The Commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or licensee, or any person with any interest therein:

(The following subsections apply)

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the Commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any Commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control;

(8) Fails to prove, by clear and convincing evidence, that he, she or it is qualified in accordance with the provisions of this chapter;

(10) Has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal or civil public policy of this state if such pursuit creates probable cause to believe that the participation of such person in gambling or related activities would be inimical to the proper operation of an authorized gambling or related activity in this state. For the purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain.

WAC 230-03-085 Denying, suspending, or revoking an application, license or permit

We may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

(The following subsection applies)

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075.

RCW 9.46.153 Applicants and licensees-Responsibilities and duties

(The following subsection applies)

(1) It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the licensed activity will be conducted.

RCW 9.46.190 Violations relating to fraud or deceit

Any person or association or organization operating any gambling activity who or which, directly or indirectly, shall in the course of such operation:

(The following subsections apply)

(1) Employ any device, scheme, or artifice to defraud; or

(2) Make any untrue statement of a material fact, or omit to state a material fact necessary in order to make the statement made not misleading, in the light of the circumstances under which said statement is made; or

(3) Engage in any act, practice or course of operation as would operate as a fraud or deceit upon any person;

Shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.02.021..

IV.

The charges specified above constitute grounds for revocation of the Class III Employee certification issued to Adam Flores to conduct authorized gambling activities under the authority of the Nisqually Tribal/State Compact RCW 9.46.075 and WAC 230-03-085.

V.

Adam Flores requested a hearing in this matter, but has waived his right to a hearing based on the terms and conditions of this Settlement Order. The Class III Employee agrees to the following:

1) Adam Flores shall surrender his Class III Employee Certification on or before October 13, 2009. Additionally, Mr. Flores is not currently working as a Class III Employee.

2) Adam Flores shall not hold or re-apply for a gambling license or certification before October 13, 2010. In the event that Mr. Flores does reapply after October 13, 2010, he shall be required to establish, by clear and convincing evidence, that he is qualified to hold a gambling license or certification.

3) In the event Mr. Flores applies for a gambling license or certification, he will be subject to all the Commission's investigative procedures for processing an application for a gambling license or certification. Nothing herein shall prevent the Commission from denying Mr. Flores' application for a license or certification at that time based on facts that may not be currently

known by Commission legal staff. Furthermore, no promises or assurances have been made to Mr. Flores that he will receive a license or certification from the Commission should he apply.

4) Mr. Flores shall have no involvement directly or indirectly, whether paid or unpaid, in the operation, ownership, or financing of any business in Washington State which is applying for, or holds, a gambling license or permit or is involved with any gambling activity, including punchboard/pull-tab activity.

5) However, this does not prevent Mr. Flores from working in any non-gambling activity, such as employment in restaurants located in establishments engaged in authorized gambling activity.

6) **The signed Settlement Order must be received by Commission staff on or before October 13, 2009**, and mailed to Commission Headquarters at the following address:

Washington State Gambling Commission
Attention: Communications and Legal Division
P.O. Box 42400
Olympia, WA 98504-2400

Or delivered (in person or via private courier) to the following address:

Washington State Gambling Commission
4565 7th Avenue SE; Fourth Floor
Attention: Communications and Legal Division Lacey, WA 98503

DATED this 15 day of October, 2009.



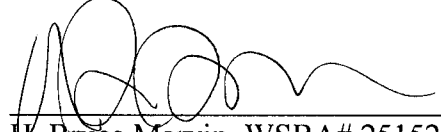
Administrative Law Judge

By his signature, the licensee
understands and accepts the terms
and conditions of this Order

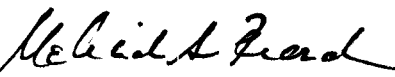
APPROVED FOR ENTRY:


Adam Flores
10/4/09
(Date)

APPROVED AS TO FORM:



H. Bruce Marvin, WSBA# 25152
Assistant Attorney General,
Representing the Washington State
Gambling Commission



Melinda Froud, WSBA# 26792
Staff Attorney,
Washington State Gambling Commission

